

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 243 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

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REHANA (SULTANA) RAFIQUE

Versus

REGIONAL PASSPORT OFFICER

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Appearance:

MR MID PATEL with Shehnaz I.Patel for Petitioner

MS PROMILA SAFAYA for Respondent

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CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 04/02/97

ORAL JUDGEMENT

Rule. Ms Promila Safaya, learned Standing  
Counsel for Central Government waives service of notice  
of rule on behalf of the respondent.

At the request of learned Advocates appearing for

the parties, the petition is heard today.

The petitioner-Ms Rehana (Sultana) Rafique Patel approaches this Court with a prayer that the respondent-Regional Transport Officer should be directed to issue a passport in her maiden name because though married earlier she has been able to obtain a customary divorce. The learned Counsel for the respondent has submitted that it is not established that practice of customary divorce is prevailing in the community to which the petitioner belongs and, therefore, prayer should not be granted. The claim made by the petitioner does not appear to be baseless. In support of the claim in the petition, the petitioner has produced a copy of divorce deed executed on a duly stamped paper between the parties on September 12, 1990. In view of this, there should not be any difficulty in accepting the case of the petitioner that her marriage has been dissolved and that she is a divorcee. If this is the fact, case for directing the respondent to issue passport to the petitioner in her maiden name is made out. The petitioner has also averred in the petition that her correct date of birth is June 1, 1960, but by mistake it was mentioned to be January 18, 1961 in the passport which was issued to her earlier. In support of this claim, the petitioner has produced Birth Certificate issued by competent authority of State of Rajasthan, which indicates that her date of birth is June 1, 1960. It is true that in the School Leaving Certificate date of birth of the petitioner is shown to be June 18, 1961. However, it is well settled that between School Leaving Certificate and Birth Certificate, reliance should be placed on Birth Certificate for the purpose of ascertaining date of birth. Under the circumstances, following direction is given.

The respondent-Regional Passport Officer is directed to issue passport to the petitioner in her maiden name with correct date of birth as mentioned in the Birth Certificate provided the petitioner fulfills other obligations in view of the relevant rules and regulations for issuance of passport. Rule is made absolute accordingly, with no order as to costs. D.S. Permitted.

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